

APPENDIX B

Monitoring Protocol

Pursuant to Section VII of the Settlement Agreement (the “Agreement”) between the Parties in *Hunter, et al. v. Perdue*, Case No. 2:16-cv-798-MHT-CSC (M.D. Ala.), the Alabama Disabilities Advocacy Program (“ADAP”) shall monitor the implementation, by the Commissioner of the Alabama Department of Mental Health (the “ADMH Commissioner”), of the terms of the Agreement. The provisions below constitute ADAP’s protocol for monitoring pursuant to the Agreement.

I. DATA COLLECTION AND REVIEW

1. Beginning the fourth calendar month following Final Settlement Approval of the Agreement, the ADMH Commissioner shall provide to ADAP, within the first five (5) calendar days of each month, an cumulative electronic spreadsheet containing the following information:

A. The full names of all persons awaiting court-ordered Outpatient Mental Evaluations, Inpatient Mental Evaluations, or Competency Restoration Treatment for the preceding month;

B. The date that the AMDH Commissioner received the court order directing that the ADMH Commissioner provide the relevant individual an Outpatient Mental Evaluation, Inpatient Mental Evaluation, or Competency Restoration Treatment;

C. The number of days that each individual has been awaiting a court-ordered Outpatient Mental Evaluation, Inpatient Mental Evaluation, or Competency Restoration Treatment;

D. The type of psychiatric service that the ADMH Commissioner has been ordered to provide each individual, i.e., Outpatient Mental Evaluation, Inpatient Mental Evaluation, or Competency Restoration Treatment;

E. The date that each individual awaiting an Outpatient Mental Evaluation, an Inpatient Mental Evaluation, or Competency Restoration Treatment was admitted to Taylor Hardin Secure Medical Facility or Bryce Hospital, or was evaluated on an Outpatient basis.

2. Beginning the fourth calendar month following Final Approval of the Agreement, the ADMH Commissioner shall provide to ADAP, within five (5) days of ADAP’s request for same, copies of any of the materials specified in the Subsections A through L below. If the materials requested by ADAP pursuant to this Section are voluminous, the ADMH Commissioner may discharge his duty to provide ADAP access to the materials specified below by notifying the ADAP personnel identified as “contact personnel” below that the records are voluminous and providing ADAP personnel physical access to the materials within five (5) business days of the request for materials for inspection and copying as necessary (with any such copies being

maintained by ADAP in accordance with the provisions of the Protective Order entered in this Lawsuit).

A. Documents containing data used to generate the spreadsheet specified in Subsection I.1 above.

B. Waiting lists maintained by the ADMH Commissioner or any agent or contract provider providing court-ordered Outpatient Mental Evaluations, Inpatient Mental Evaluations, or Competency Restoration Treatment by or on behalf of the ADMH Commissioner;

C. Documents pertaining to the ADMH Commissioner's receipt of any Alabama circuit court order directing ADMH to provide an Outpatient Mental Evaluation, Inpatient Mental Evaluation, or Competency Restoration Treatment to any person charged with a crime in the State of Alabama;

D. Documents pertaining to any obstacle to the provision of a court-ordered Outpatient Mental Evaluation, Inpatient Mental Evaluation, or Competency Restoration Treatment causing the ADMH Commissioner to "skip" anyone awaiting same when they reach the top of the waiting list as specified in Section VI.H of the Agreement.

E. Documents pertaining to the addition and operation of hospital forensic beds by the ADMH Commissioner, whether by and through ADMH, or pursuant to a contract for the addition and operation of same.

F. Documents pertaining to the operation of community forensic beds by the ADMH Commissioner, whether by and through ADMH, or pursuant to a contract for the addition and operation of same.

G. Documents pertaining to the transportation of persons in the physical custody of a county jail in Alabama to an ADMH-operated facility or ADMH contract provider for a court-ordered Outpatient Mental Evaluation, Inpatient Mental Evaluation, or Competency Restoration Treatment.

H. Medical and administrative records for persons ordered by an Alabama circuit court to receive an Outpatient Mental Evaluation, Inpatient Mental Evaluation, or Competency Restoration Treatment from ADMH.

I. Records pertaining to the preparation and submission of all reports of court-ordered Outpatient Mental Evaluations and Inpatient Mental Evaluations to the relevant Alabama circuit court, including copies of the reports.

J. Records pertaining to the preparation and submission of all reports required by Alabama Rule of Criminal Procedure 11 concerning court-ordered Competency Restoration Treatment to the relevant Alabama circuit court, including copies of the reports.

K. Documents pertaining to bed usage, whether hospital or community, by the ADMH Commissioner or a contractor of the ADMH Commissioner.

L. Documents pertaining to the daily census of Taylor Hardin Secure Medical Facility, Bryce Hospital, any contract hospital forensic bed, and any contract provider of community forensic beds, including the nature of the services being provided to persons comprising census.

II. MONITORING OF FACILITIES

ADAP shall be permitted to physical access all facilities operated by the ADMH Commissioner or a contractor thereof in which court-ordered Outpatient Mental Evaluations, Inpatient Mental Evaluation, and/or Competency Restoration Treatment in accordance with the provisions below.

1. ADAP shall be permitted to physically access ADMH-operated or contracted facilities to determine compliance with the provisions of the Settlement Agreement.

2. During ADAP's visits to ADMH-operated or contracted facilities, ADAP personnel will identify themselves to the relevant supervisory personnel of the facility and indicate that they will conduct a monitoring of the facility.

3. During ADAP's visits to ADMH-operated or contracted facilities, ADAP personnel will be provided access to persons receiving Outpatient Mental Evaluations, Inpatient Mental Evaluations, and Competency Restoration Treatment to confirm reports of service provision as specified in Section I.

4. During ADAP's visits to ADMH-operated or contracted facilities, ADAP personnel shall be permitted to speak with facility employees to confirm reports of service provision as specified in Section I.

5. ADAP, in conducting facility monitoring visits, will make all reasonable efforts to monitor ADMH-operated or contracted facilities during normal business hours.

III. ADAP PERSONNEL INVOLVED IN MONITORING

1. *ADAP Contact Personnel.* The Executive Director of ADAP shall designate, in writing, to counsel for the ADMH Commissioner, the contact personnel for purposes of Section I.2 above within the first month of each calendar year of the Agreement's duration, and shall promptly notify counsel for the ADMH Commissioner of any change thereto.

2. *ADAP Monitoring Personnel.* ADAP shall have the discretion to assign personnel to monitor the ADMH Commissioner's compliance with the terms of the Settlement Agreement, but will, in assigning any ADAP employee to conduct monitoring, familiarize such employee with the terms of the Agreement, this Addendum B, and the terms of the Protective Order entered in this Lawsuit concerning the treatment of sensitive information.

IV. RESOLUTION OF DISPUTES PERTAINING TO MONITORING

1. Any dispute arising from or pertaining to ADAP's monitoring of the ADMH Commissioner's compliance with the terms of the Agreement shall be resolved in accordance with the Dispute Resolution provisions specified in Section VIII of the Agreement.